

Baker, Bullock, Kepple, Litten,
O'Malley, Rader, Shachner

ORDINANCE NO. 11-2022

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Chapter 549.10, Fireworks, of the Codified Ordinances of the City of Lakewood in order to address and account for changes made to Ohio law and adopt a conforming local ordinance regulating fireworks:

WHEREAS, the City desires to regulate the practice, possession, sale, and use of fireworks; and

WHEREAS, the City desires to enact regulations that preserve citizens' quiet enjoyment of their residential properties and ensure the safety of a dense residential and business area; and

WHEREAS, Governor DeWine recently signed House Bill 172 into law, allowing any person authorized to possess consumer grade fireworks to discharge them on their own property or on another persons property with permission, on certain designated days to include New Years Day, Chinese New Year, Cinco de Mayo, Memorial Day weekend, Juneteenth, July 3, 4, and 5 and the Friday, Saturday, and Sunday preceding and following these dates, Labor Day weekend, Diwali, and New Year's Eve, and further allowing local municipalities to restrict the dates and/or times that individuals may discharge consumer-grade fireworks or to impose a complete ban on the use of consumer -grade fireworks; and

WHEREAS, the City wishes to impose a complete ban on the use of consumer-grade fireworks; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, STATE OF OHIO:

Section 1. That Section 549.10, Fireworks, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

549.10 FIREWORKS.

(a) Definitions. As used in this section, unless otherwise provided:

- (1) "Beer" and "intoxicating liquor" have the same meanings given in Section 529.01.
- (2) "Class B and Class C fireworks" means fireworks classified as Class B and Class C fireworks by the State Fire Marshal in rules adopted pursuant to Ohio R.C. 3743.05(A).
- (3) "Controlled substance" has the same meaning given in Section 513.01.
- (4) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in subsection (h) hereof.
- (5) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage of manufactured fireworks by a manufacturer, takes place.

(6) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 through 3743.55.

(7) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 through 3743.08.

(8) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 through 3743.21.

(ORC 3743.01)

(b) Manufacturing.

(1) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.05 or the requirements of Ohio R.C. 3743.06.

(2) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale and retail records, as required by Ohio R.C. 3743.07, or fail to permit inspection of these records or the premises of a fireworks plant pursuant to Ohio R.C. 3743.08.

(3) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.08(B)(1), within the specified period of time.

(4) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.08(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or until the seventy-two hour period specified in that paragraph has expired, whichever first occurs.

(5) No person shall smoke or carry a lighted pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame, on the premises of a fireworks plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to Ohio R.C. 3743.06(C).

(6) No person shall have in his or her possession or under his or her control, or be under the influence of, any intoxicating liquor, beer or controlled substance, while he or she is on the premises of a fireworks plant.

(ORC 3743.60)

(c) Wholesaling.

(1) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.18 or the requirements of Ohio R.C. 3743.19.

(2) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records, as required by Ohio R.C. 3743.20, or fail to permit inspection of these records or the premises of the wholesaler pursuant to Ohio R.C. 3743.21.

(3) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.21(B)(1), within the specified period of time.

(4) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied, or until the seventy-two hour period specified in that paragraph has expired, whichever first occurs.

(5) No person shall smoke or carry a lighted pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame, on the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to Ohio R.C. 3743.19(D).

(6) No person shall have in his or her possession or under his or her control, or be under the influence of, any intoxicating liquor, beer or controlled substance, while he or she is on the premises of a wholesaler of fireworks. (ORC 3743.61)

(d) Purchasing and Transporting.

(1) No person who resides in another state and purchases fireworks in this State shall obtain possession of the fireworks in this State unless he or she complies with Ohio R.C. 3743.44.

(2) No person who resides in another state and who purchases fireworks in this State shall obtain possession of fireworks in this State other than from a licensed manufacturer or wholesaler, or fail, when transporting the fireworks, to transport them directly out of this State within seventy-two hours after the time of their purchase. No such person shall give or sell to any other person in this State fireworks that the person has acquired in this State.

(3) No person who resides in this State and purchases fireworks in this State shall obtain possession of the fireworks in this State unless he or she complies with Ohio R.C. 3743.45.

(4) No person who resides in this State and who purchases fireworks in this State under Ohio R.C. 3743.45 shall obtain possession of fireworks in this State other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of this State within forty-eight hours after the time of their purchase. No such person shall give or sell to any other person in this State fireworks that the person has acquired in this State.

(ORC 3743.63)

(e) Exhibitions.

(1) No licensed exhibitor of fireworks shall fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.53(B).

(2) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Ohio R.C. 3743.54, or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer and the Police Chief of the Municipality pursuant to that section.

(3) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(4) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have in his or her possession or under his or her control, or be under the influence of, any intoxicating liquor, beer or controlled substance, while he or she is on the premises on which the exhibition is being conducted.

(ORC 3743.64)

(f) Possession, Sale, Discharge and Advertising; Falsification.

(1) No person shall possess, possess for sale or sell fireworks in the Municipality, except a licensed manufacturer of fireworks, as authorized by Ohio R.C. 3743.02 through 3743.08, a licensed wholesaler of fireworks, as authorized by Ohio R.C. 3743.15 through 3743.21, an out-of-state resident, as authorized by Ohio R.C. 3743.44, a resident of this State, as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks, as authorized by Ohio R.C. 3743.50 through 3743.55, and except as provided in subsection (h) hereof.

(2) Except as provided in subsection (h) hereof and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55, no person shall discharge, ignite or explode any fireworks in the Municipality.

(3) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(4) No person shall knowingly make a false statement on a purchaser's form completed under Ohio R.C. 3743.07, 3743.20, 3743.44 or 3743.45.

(5) No person shall sell fireworks of any kind to a person under eighteen years of age.

(6) No person shall advertise Class C fireworks for sale. A sign located on a seller's premises identifying him or her as a seller of fireworks is not the advertising of fireworks for sale.

(7) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor or shipping permit holder, shall possess Class B fireworks in the Municipality.

(ORC 3743.65)

(g) Transporting and Shipping.

(1) No person shall transport fireworks in the Municipality except in accordance with rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.58.

(2) As used in this paragraph, "fireworks" includes only class B and class C fireworks.

No person shall ship fireworks into the Municipality by mail, parcel post or common carrier, unless the person possesses a valid shipping permit issued under Ohio R.C. 3743.40 and the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.03, 3743.16 or 3743.51.

No person shall ship fireworks within the Municipality by mail, parcel post or common carrier, unless the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.03, 3743.16 or 3743.51.

(ORC 3743.66)

(h) Exceptions. This section does not prohibit or apply to the following:

(1) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;

(2) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes or other signals necessary for the safe operation of railroads;

(3) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(4) The manufacture for, the transportation, storage, possession or use by, or sale to, the Armed Forces of the United States and the militia of this State of pyrotechnic devices;

(5) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or the manufacture, sale, possession, transportation, storage or use of those caps;

(6) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models; or

(7) The manufacture, sale, possession, transportation, storage or use of sparklers on a wire stick, as this term is defined in the regulations of the United States Department of Transportation.

(ORC 3743.80)

(i) Forfeiture and Disposal. Fireworks manufactured, sold, possessed, transported or used in violation of this section shall be forfeited by the violator. The Municipal Fire Safety Inspector or the Police Division shall dispose of seized fireworks pursuant to the procedures specified in Ohio R.C. 2933.41 for the disposal of forfeited property by law enforcement agencies.

(ORC 3743.68(B))

(j) Penalty. Whoever violates any of the provisions of this section is guilty of a misdemeanor of the first degree, provided the offender has not previously been convicted of a violation of any of the provisions of this section.

(ORC 3743.99(C))

is hereby repealed.

Section 2. That new Section 549.10 Fireworks of the Codified Ordinances of the City of Lakewood is hereby enacted to read as follows:

549.10 FIREWORKS.

(a) Definitions. As used in this section, unless otherwise provided:

(1) "Beer" and "intoxicating liquor" have the same meanings given in Section 529.01.

(2) "Class B and Class C fireworks" means fireworks classified as Class B and Class C fireworks by the State Fire Marshal in rules adopted pursuant to Ohio R.C. 3743.05(A).

(3) "Controlled substance" has the same meaning given in Section 513.01.

(4) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in subsection (h) hereof.

(5) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage of manufactured fireworks by a manufacturer, takes place.

(6) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 through 3743.55.

(7) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 through 3743.08.

(8) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 through 3743.21.

(ORC 3743.01)

(b) Manufacturing.

(1) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.05 or the requirements of Ohio R.C. 3743.06.

(2) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale and retail records, as required by Ohio R.C. 3743.07, or fail to permit inspection of these records or the premises of a fireworks plant pursuant to Ohio R.C. 3743.08.

(3) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.08(B)(1), within the specified period of time.

(4) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.08(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or until the seventy-two hour period specified in that paragraph has expired, whichever first occurs.

(5) No person shall smoke or carry a lighted pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame, on the premises of a fireworks plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to Ohio R.C. 3743.06(C).

(6) No person shall have in his or her possession or under his or her control, or be under the influence of, any intoxicating liquor, beer or controlled substance, while he or she is on the premises of a fireworks plant.

(ORC 3743.60)

(c) Wholesaling.

(1) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.18 or the requirements of Ohio R.C. 3743.19.

(2) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records, as required by Ohio R.C. 3743.20, or fail to permit inspection of these records or the premises of the wholesaler pursuant to Ohio R.C. 3743.21.

(3) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.21(B)(1), within the specified period of time.

(4) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Ohio R.C. 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied, or until the seventy-two hour period specified in that paragraph has expired, whichever first occurs.

(5) No person shall smoke or carry a lighted pipe, cigarette or cigar, or a match, lighter, other flame-producing item or open flame, on the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to Ohio R.C. 3743.19(D).

(6) No person shall have in his or her possession or under his or her control, or be under the influence of, any intoxicating liquor, beer or controlled substance, while he or she is on the premises of a wholesaler of fireworks. (ORC 3743.61)

~~(d) Purchasing and Transporting.~~

~~(1) No person who resides in another state and purchases fireworks in this State shall obtain possession of the fireworks in this State unless he or she complies with Ohio R.C. 3743.44.~~

~~—(2) No person who resides in another state and who purchases fireworks in this State shall obtain possession of fireworks in this State other than from a licensed manufacturer or wholesaler, or fail, when transporting the fireworks, to transport them directly out of this State within seventy-two hours after the time of their purchase. No such person shall give or sell to any other person in this State fireworks that the person has acquired in this State.~~

~~—(3) No person who resides in this State and purchases fireworks in this State shall obtain possession of the fireworks in this State unless he or she complies with Ohio R.C. 3743.45.~~

~~—(4) No person who resides in this State and who purchases fireworks in this State under Ohio R.C. 3743.45 shall obtain possession of fireworks in this State other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of this State within forty-eight hours after the time of their purchase. No such person~~

~~shall give or sell to any other person in this State fireworks that the person has acquired in this State.~~

~~— (ORC 3743.63)~~

(e) Exhibitions.

(1) No licensed exhibitor of fireworks shall fail to comply with the rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.53(B).

(2) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Ohio R.C. 3743.54, or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer and the Police Chief of the Municipality pursuant to that section.

(3) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(4) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have in his or her possession or under his or her control, or be under the influence of, any intoxicating liquor, beer or controlled substance, while he or she is on the premises on which the exhibition is being conducted.

(ORC 3743.64)

(f) Possession, Sale, Discharge and Advertising; Falsification.

~~— (1) No person shall possess, possess for sale or sell fireworks in the Municipality, except a licensed manufacturer of fireworks, as authorized by Ohio R.C. 3743.02 through 3743.08, a licensed wholesaler of fireworks, as authorized by Ohio R.C. 3743.15 through 3743.21, an out of state resident, as authorized by Ohio R.C. 3743.44, a resident of this State, as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks, as authorized by Ohio R.C. 3743.50 through 3743.55, and except as provided in subsection (h) hereof.~~

(2) Except as provided in subsection (h) hereof and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55, no person shall discharge, ignite or explode any fireworks in the Municipality.

(3) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(4) No person shall knowingly make a false statement on a purchaser's form completed under Ohio R.C. 3743.07, 3743.20, 3743.44 or 3743.45.

(5) No person shall sell fireworks of any kind to a person under eighteen years of age.

(6) No person shall advertise Class C fireworks for sale. A sign located on a seller's premises identifying him or her as a seller of fireworks is not the advertising of fireworks for sale.

(7) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor or shipping permit holder, shall possess Class B fireworks in the Municipality.

(ORC 3743.65)

(g) Transporting and Shipping.

(1) No person shall transport fireworks in the Municipality except in accordance with rules adopted by the State Fire Marshal pursuant to Ohio R.C. 3743.58.

(2) As used in this paragraph, "fireworks" includes only class B and class C fireworks.

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No person shall ship fireworks within the Municipality by mail, parcel post or common carrier, unless the fireworks are shipped directly to the holder of a license issued under Ohio R.C. 3743.03, 3743.16 or 3743.51.

(ORC 3743.66)

(h) Exceptions. This section does not prohibit or apply to the following:

(1) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;

(2) The manufacture, sale, possession, transportation, storage or use of fuses, torpedoes or other signals necessary for the safe operation of railroads;

(3) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(4) The manufacture for, the transportation, storage, possession or use by, or sale to, the Armed Forces of the United States and the militia of this State of pyrotechnic devices;

(5) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or the manufacture, sale, possession, transportation, storage or use of those caps;

(6) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models; or

(7) The manufacture, sale, possession, transportation, storage or use of sparklers on a wire stick, as this term is defined in the regulations of the United States Department of Transportation.

(ORC 3743.80)

(i) Forfeiture and Disposal. Fireworks manufactured, sold, possessed, transported or used in violation of this section shall be forfeited by the violator. The Municipal Fire Safety Inspector or the Police Division shall dispose of seized fireworks pursuant to the procedures specified in Ohio R.C. 2933.41 for the disposal of forfeited property by law enforcement agencies.

(ORC 3743.68(B))

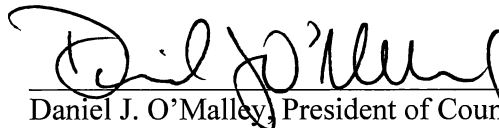
(j) Penalty. Whoever violates any of the provisions of this section is guilty of a misdemeanor of the first degree, ~~provided the offender has not previously been convicted of a violation of any of the provisions of this section.~~

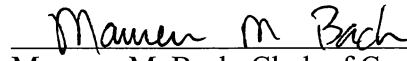
(ORC 3743.99(C))

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

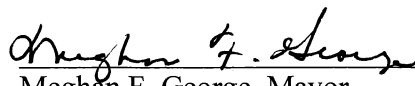
Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five (5) of members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor otherwise, it shall take effect and be in force after the earliest period allowed by law.

Adopted 4/4/2022


Daniel J. O'Malley, President of Council


Maureen M. Bach, Clerk of Council

Approved 4/6/22


Meghan F. George, Mayor